

RD AN No. 3712 (1980-D)
February 14, 2002

TO: All State Directors
Rural Development

ATTENTION: Rural Housing Program Directors,
Guaranteed Rural Housing Coordinators,
Community Development Managers, and
Rural Development Managers

FROM: James C. Alsop *(Signed by James C. Alsop)*
Acting Administrator
Rural Housing Service

SUBJECT: Eligibility of Non-U.S. Citizens for Single Family Housing
Guaranteed Loan Program Assistance

PURPOSE/INTENDED OUTCOME:

This Administrative Notice (AN) is intended to clarify what documentation non-U.S. citizens need to supply in order to be considered for a loan note guarantee under the Single Family Housing Guaranteed Loan Program (SFHGLP).

COMPARISON WITH PREVIOUS AN:

There is no previous AN on this subject.

BACKGROUND:

Agency field staff have requested guidance from the National Office to determine what documentation is sufficient for non-citizens in order for them to be considered for a SFHGLP

EXPIRATION DATE:
February 28, 2003

FILING INSTRUCTIONS:
Preceding RD Instruction 1980-D

loan note guarantee. RD Instruction 1980-D, section 1980.346(c), limits eligibility for individuals who receive a loan note guarantee under the SFHGLP to those who:

reside as a citizen in any of the 50 States, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Marianas, Federated States of Micronesia, and the Republics of the Marshal Islands and Palau, or a noncitizen who resides in one of the foregoing areas after being legally admitted to the U.S. for permanent residence or on indefinite parole.

The term “indefinite parole” is no longer a term used by the Immigration and Naturalization Service (INS). Instead, under Section 401 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) (8 U.S.C., Section 1611) lenders and the Agency must determine whether the applicant for a guaranteed loan is a U.S. citizen, a U.S. non-citizen national, or a “qualified alien.”

Generally, a U.S. non-citizen national is a person born in American Samoa or Swains Island or after the date the U.S. acquired American Samoa or Swains Island, or a person whose parents are U.S. non-citizen nationals. Typical evidence of the relatively uncommon status as a non-citizen national includes a birth certificate or passport, and persons who are non-citizen nationals are eligible for consideration under the SFHGLP.

A “qualified alien” is defined under PRWORA (8 U.S.C., Section 1641) as:

- 1) an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act;
- 2) an alien who is granted asylum under section 208 of such Act;
- 3) a refugee who is admitted to the United States under section 207 of such Act;
- 4) an alien who is paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year;
- 5) an alien whose deportation is being withheld under section 243(h) of such Act; or
- 6) an alien who is granted conditional entry pursuant to section 203(a)(7) of such Act as in effect prior to April 1, 1980;
- 7) an alien who is a Cuban/Haitian Entrant as defined by section 501(e) of the Refugee Education Assistance Act of 1980; or
- 8) An alien who has been battered or subjected to extreme cruelty under section 431 of the Immigration and Nationality Act (INA).

The Department of Housing and Urban Development (HUD) will insure loans to non-permanent resident aliens provided that the borrower occupies the property as a residence, has a social security number, and is eligible to work in the United States. Despite HUD's operating policy in this regard, the Office of General Counsel has determined that the SFHGLP may not permit loans to be guaranteed unless the non-permanent alien is deemed to be a qualified alien, as described above. A list of documentation serving as evidence that a non-permanent alien is a qualified alien follows below.

IMPLEMENTATION RESPONSIBILITIES:

Effective immediately, lenders must have secured evidence that non-citizens who apply for a guaranteed loan are qualified aliens. Evidence confirming qualified alien status may be obtained either electronically through the INS automated verification system, or by obtaining documentation further described below. When combined with satisfactory proof of identity, such evidence is adequate to establish that the applicant is a qualified alien under PRWORA.

INS Automated Verification System

Lenders enrolled in the INS automated system known as the Systematic Alien Verification For Entitlements (SAVE) may use SAVE to determine an alien's status. The SAVE system provides the following information: Alien Registration Number, Verification Number, First Name, Last Name, and Immigration Status messages. Search results from SAVE should be printed out as evidence of the alien's immigration status and eligibility. Because there may be a fee assessed to lenders accessing SAVE, the use of SAVE is not required. Lenders wishing to enroll in SAVE should follow the instructions in Housing and Urban Development (HUD) Directive No. 7465.7G. Further information on SAVE may be found on the internet at <http://www.ins.usdoj.gov/graphics/services/save.htm>.

Documentation that a Non-Citizen is a Qualified Alien

Other than the use of SAVE, copies of specific documentation will serve as evidence that the non-citizen is a qualified alien. Any of the following documents is acceptable evidence of eligible immigration status:

1. INS Form I-551, Alien Registration Receipt Card (for permanent resident aliens);

2. INS Form 1-688B, Employment Authorization Card, which must be annotated “Provision of Law” followed by one of the provisions listed below:
 - 274a.12(c)(11), or
 - 274a.12(a)(1), or
 - 274a.12(a)(3), or
 - 274a.12(a)(4), or
 - 274a.12(a)(5), or
 - 274a.12(a)(10)

3. INS Form I-765 (Employment Authorization Document) annotated as follows:
 - A3, or
 - A5, or
 - A10.

4. INS Form I-571 (Refugee Travel Document);

5. INS Form 1-94, Arrival-Departure Record, with one of the following annotations:
 - “Admitted as Refugee Pursuant to Section 207”;
 - “Section 208” or “Asylum”;
 - “Section 243(h)” or “Deportation stayed by Attorney General”;
 - “Paroled Pursuant to Section 212(d)(5) of the INA;”
 - “Admitted under Section 203(a)(7) of the INA.”

6. If Form 1-94, Arrival-Departure Record, is not annotated, it will still be acceptable evidence of eligible immigration status if it is accompanied by one of the following documents:
 - A final court decision granting asylum (but only if no appeal is taken);
 - A letter from an INS asylum officer granting asylum (if application is filed on or after October 1, 1990) or from an INS district director granting asylum (if application was filed before October 1, 1990);
 - A court decision granting withholding of deportation; or
 - A letter from an asylum officer granting withholding of deportation (if application filed on or after October 1, 1990).

7. A receipt issued by the INS indicating that an application for issuance of a replacement document in one of the above-listed categories has been made and the applicant's entitlement to the document has been verified; or
8. Other acceptable evidence. If other documents are determined by the INS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the Federal Register.

If the documentation described above appears to be altered or counterfeit, or if the alien presents unfamiliar INS documentation, the lender should complete INS Form G-639, "Application for Verification of Immigration Records," and forward it to the nearest INS District Office for review. A copy of INS Form G-639 is attached. Fully readable copies (front and back) of the original immigration documents should be attached to the INS Form G-639 when it is submitted to the INS District Office. The original documents should be returned to the non-citizen. There is a 10 business day INS processing period. The location of INS District Offices may be found on the internet at <http://www.ins.usdoj.gov/graphics/fieldoffices/statemap.htm>.

Notification

State-approved lenders should be notified of this AN by their respective State Offices. The National Office will notify Nationwide-approved lenders.

Should there be any comments or questions concerning this AN, please contact Joaquín Tremols at (202) 720-1465, email address jtremols@rdmail.rural.usda.gov.

Attachment

Freedom of Information/Privacy Act Request

The completion of this form is optional.

Any written format for Freedom of Information or Privacy Act requests is acceptable.

START HERE – Please type or print and read instructions on the reverse before completing this form.

1. Type of Request: *(Check appropriate box)*

- Freedom of Information Act (FOIA) *(Complete all items except 7)*
- Privacy Act (PA) *(Item 7 must be completed in addition to all other applicable items)*
- Amendment *(PA only, Item 7 must be completed in addition to all other applicable items)*

2. Requester Information:

| | | | |
|---|--------|--------------------|--|
| Name of Requester: | | Daytime Telephone: | |
| Address <i>(Street Number and Name)</i> : | | Apt. No | |
| City: | State: | Zip Code: | |

By my signature, I consent to the following:

Pay all costs incurred for search, duplication, and review of materials up to \$25.00, when applicable. *(See Instructions)*

Signature of requester: _____

- Deceased Subject - **Proof of death must be attached.** *(Obituary, Death Certificate or other proof of death required)*

3. Consent to Release Information. *(Complete if name is different from Requester)(Item 7 must be completed)*

| | |
|--------------------------------------|-------------------------------------|
| Print Name of Person Giving Consent: | Signature of Person Giving Consent: |
|--------------------------------------|-------------------------------------|

By my signature, I consent to the following: *(check applicable boxes)*

- Allow the Requester named in item 2 to see all of my records or a portion of my record. If a portion, specify what part *(i.e. copy of application)*

(Consent is required for records for United States Citizens (USC) and Lawful Permanent Residents (LPR))

4. Action Requested *(Check One)*: Copy In-Person Review

5. Information needed to search for records:

Specific information, document(s), or record(s) desired: *(Identify by name, date, subject matter, and location of information)*

Purpose: *(Optional: you are not required to state the purpose for your request; however, doing so may assist the INS in locating the records needed to respond to your request.)*

6. Data NEEDED on SUBJECT of Record: *(If data marked with asterisk (*) is not provided records may not be located)*

| | | | |
|---|--|---------------------|------------------------------|
| * Family Name | Given Name: | | Middle Initial: |
| *Other names used, if any: | * Name at time of entry into the U.S.: | | I-94 Admissions #: |
| * Alien Registration #: | * Petition or Claim Receipt #: | * Country of Birth: | *Date of Birth or Appx. Year |
| Names of other family members that may appear on requested record(s) <i>(i.e., Spouse, Daughter, Son)</i> : | | | |
| Country of Origin <i>(Place of Departure)</i> : | Port-of-Entry into the U.S. | | Date of Entry: |
| Manner of Entry: <i>(Air, Sea, Land)</i> | Mode of Travel: <i>(Name of Carrier)</i> | | SSN: |
| Name of Naturalization Certifications: | | Certificate #: | Naturalization Date: |
| Address at the time of Naturalization: | | Court and Location: | |

7. Verification of Subject's Identity: *(See Instructions for Explanation)(Check One Box)*

In-Person with ID Notarized Affidavit of Identity Other *(Specify)* _____

Signature of Subject of Record: _____ Date: _____

Telephone No.: () - _____

NOTARY *(Normally needed from individuals who are the subject of the records sought) (See below)*

or a sworn declaration under penalty of perjury.

Subscribed and sworn to before me this _____ day of _____ in the Year _____

Signature of Notary _____ My Commission Expires _____

OR

If a declaration is provided in lieu of a notarized signature, it must state, at a minimum, the following: (Include Notary Seal or Stamp in this Space)

If executed outside the United States: "I declare (certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

If executed within the United States, its territories, possessions, or commonwealths: "I declare (certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

Signature: _____

Signature: _____

Freedom of Information/Privacy Act Request

INSTRUCTIONS

Please read **ALL** Instructions carefully before completing this form.

Applicants making false statements are subject to criminal penalties (Pub.L. 93-579.99 Stat. (5 U.S.C. 552a(i)(3)).

Are There Cases When You do not Use This Form?

Do not use this form:

- (1) To determine status of pending applications, write to the office where the application was filed or call the nearest INS office;
- (2) For Consular notification of visa petition approval, use Form I-824 (Application for Action on an Approved Application or Petition);
- (3) For the return of original documents, use Form G-884 (Request for Return of Original Documents);
- (4) For records of naturalization prior to September 27, 1906, write to the clerk of court where naturalization occurred; or
- (5) For information on INS manifest arrivals prior to December 1982, write to the National Archives.

How Can You Obtain Copies of Records from INS?

Persons requesting a search for access to INS records under the Freedom of Information or Privacy Acts may submit the completed application to the INS office nearest the applicant's place of residence. Requests may be submitted in person or by mail. If an application is mailed, the envelope should be clearly marked "Freedom of Information" or "Privacy Act Request." The INS Internet address is:
<http://www.ins.usdoj.gov>.

What Information is Needed to Search for Records?

Please Note: Failure to provide complete and specific information as requested in Item 5 of the form, may result in a delay in processing or inability to locate the record(s) or information requested. You may access "<http://www.access.gpo.gov/su-docs>" for a description of DOJ/INS systems of records.

Verification of Identity in Person.

Requesters appearing in person for access to their records may identify themselves by showing a document bearing a photograph (such as an Alien Registration Card, Form I-551, Citizen Identification Card, Naturalization Certificate, or passport) or two items which bear their name and address (such as a driver's license and voter's registration).

Verification of Identity by Mail.

Requesters wanting access to their records shall identify themselves by name, current address, date and place of birth, and alien or employee identification number. A notarized example of their signatures or sworn declaration under penalty of perjury must also be provided (this Form G-639 or a DOJ Form 361, Certification of Identity, may be used for this purposes).

Verification of Identity of Guardians.

Parents or legal guardians must establish their own identity as parents or legal guardians and the identity of the child or other person being represented.

Authorization or Consent.

Other parties requesting nonpublic information about an individual usually must have the consent of that individual on Form G-639 or by an authorizing letter, together with appropriate verification of identity of the record subject. Notarized or sworn declaration is required from a record subject who is a lawful permanent resident or U.S. citizen, and for access to certain Legalization files.

Can My Request be Expedited?

To have your request processed ahead of ones received earlier you must show a compelling need for the information.

How Do You Show a Compelling Need?

A requester who seeks expedited processing must explain in detail the basis of the need and should submit a statement certified to be true and correct to the best of your knowledge and belief. You must also establish one or more of the following exists:

- (1) Circumstances in which the lack of expedited processing could reasonably be expected to pose an imminent threat to the life or physical safety of an individual, or result in the loss of substantial due process rights;
- (2) An urgency to inform the public about an actual or alleged federal government activity, if made by a person primarily engaged in disseminating information; or
- (3) A matter of widespread and exceptional media interest in which there exists possible questions about the government's integrity which affect public confidence.

Fees.

Except for commercial requesters, the first 100 pages of reproduction and two hours of search time will be furnished without charge. Thereafter, for requests processed under the Privacy Act, there may be a fee of \$.10 per page for photocopy duplication. For requests processed under the Freedom of Information Act, there may be a fee for quarter hours of time spent for searches and for review of records. Search fees are at the following rates per quarter hour: \$4.00 clerical; \$7.00 professional/computer operator; and \$ 10.00 managerial. Other costs for searches and duplication will be charged at the actual direct cost. Fees will only be charged if the aggregate amount of fees for searches, copy and/or review is more than \$14.00. If the total anticipated fees amount to more than \$250.00, or the same requester has failed to pay fees in the past, an advance deposit may be requested. Fee waivers or reductions may be requested for a request that clearly will benefit the public and is not primarily in the personal or commercial interest of the requester. Such requests should include a justification.

INSTRUCTIONS *Continued*

When Must I Submit Fees?

Do not send money with this request. When requested to do so, submit fees in the exact amount. Payment may be in the form of a check or a United States Postal money order (or, if form is submitted from outside the United States, remittance may be made by bank international money order or foreign draft drawn on a financial institution in the United States) made payable, in United States currency, to the "Immigration and Naturalization Service". A requester residing in the U.S. Virgin Islands shall make his/her remittance payable to "Commissioner of Finance of the Virgin Islands," and, if residing in Guam, to "Treasurer, Guam". **DO NOT SEND CASH AT ANYTIME.**

A charge of \$30.00 will be imposed if a check in payment of a fee is not honored by the bank on which it is drawn. Every remittance will be accepted subject to collection.

Routine Uses.

Information will be used to comply with requests for information under 5 U.S.C. 552 and 552a; information provided to other agencies may be for referrals, consultations, and/or to answer subsequent inquiries concerning specific requests.

Effect of Not Providing Requested Information.

Furnishing the information requested on this form is voluntary. However, failure to furnish the information may result in the inability of INS to comply with a request when compliance will violate other policies or laws.

General Information.

The Freedom of Information Act (5 U.S.C. 552) allows requesters to have access to Federal agency records, except those which have been exempted by the Act.

Privacy Act Statement.

Authority to collect this information is contained in Title 5 U.S.C. 552 and 552a. The purpose of the collection is to enable INS to locate applicable records and to respond to requests made under the Freedom of Information and Privacy Acts.

The Privacy Act of 1974. (5 U.S.C. 552a).

With certain exceptions, the Privacy Act of 1974 permits individuals (U.S. citizens or permanent resident aliens) to gain access to information pertaining to themselves in Federal agency records, to have a copy made of all or any part thereof, to correct or amend such records, and to permit individuals to make requests concerning what records pertaining to themselves, are collected, maintained, used or disseminated. The Act also prohibits disclosure of individuals' records without their written consent, except under certain circumstances as prescribed by the Privacy Act.

Public Reporting Burden.

Under the Paperwork Reduction Act (5 U.S.C. 1320), a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. The estimated average time to complete and file this application is 15 minutes per response, including the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler you may write to the Immigration and Naturalization Service, HQPDI, 425 I Street, N.W., Room 4307r, Washington, DC 20536; OMB No. 1115-0087.